

### **REMARKS**

In the September 18, 2007 Office Action, claims 1-8 stand rejected in view of prior art. Claims 4 and 5 were rejected for failing to indicate and claim particularly and distinctly the subject matter that Applicant regards as the invention. No other objections or rejections were made in the Office Action.

#### ***Status of Claims and Amendments***

Claims 1, 2 and 6 have been amended and claim 2 has been cancelled by the current Amendment. Thus, claims 1 and 3-8 are pending, with claims 1, 4 and 5 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

#### ***Claim Rejections - 35 U.S.C. §112***

In paragraph 2 of the Office Action, claims 4 and 5 were rejected under 35 U.S.C. §112, second paragraph. Specifically, the Office Action states that claims 4 and 5 both recite a ventilation fan and therefore violate the principle of double inclusion (MPEP 2173.05(o)).

Applicant believes this rejection is in error because claim 4 is an independent claim that includes the heat exchanger recited in claim 1 and claim 5 is also an independent claim that includes the heat exchanger recited in claim 1. Since claims 4 and 5 do not depend from one another, and the ventilation fan is not recited in any other claim, Applicant fails to see how the principle of double inclusion applies to these two unrelated claims.

Applicant believes that the claims comply with 35 U.S.C. §112, second paragraph. Withdrawal of the rejections is respectfully requested.

***Rejections - 35 U.S.C. § 102***

In paragraphs 4-7 of the Office Action, claims 1-3 stand rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent Document JP-06/094256 (Yamashita et al.). In response, claims 1, 2 and 6 have been amended to more clearly recite the various features of the present invention.

In particular, independent claim 1 has been amended to recite a heat exchanger that includes a first heat exchange unit ***having an approximate inverted V shape in cross-section***, a second heat exchange unit that is connected at an angle with one end of the first heat exchange unit and a third heat exchange unit that is connected at an angle with another end of the first heat exchange unit, ***the second heat exchange unit and the third heat exchange unit respectively extend downward from respective front and rear lower ends of the first heat exchange unit*** and the second heat exchange unit and the third heat exchange unit have approximately the same length.

This structure is ***not*** disclosed or suggested by Yamashita et al., or any other prior art of record. Contrary to the characterization in the Office Action, Yamashita et al. discloses a single heat exchanger unit that has been bent and shaped into yield either curved form or a multi-sided form as shown in Figures 2, 8, 9 and 11. In the original Japanese text, Yamashita et al. describes a single heat exchanger unit that is shaped or bent into the depicted orientations. Yamashita et al. does not disclose three separate heat exchanger units that are coupled together, as required by amended claim 1.

It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicant respectfully submits that claim 1, as now amended, is not anticipated by the prior art of record. Withdrawal of this rejection is respectfully requested.

Moreover, Applicant believes that the dependent claim 3 is also allowable over the prior art of record in that it depends from independent claim 1, and therefore is allowable for the reasons stated above. Also, the dependent claim 3 is further allowable because it includes additional limitations. Thus, Applicant believes that since the prior art of record does not anticipate the independent claim 1, neither does the prior art anticipate the dependent claims.

As set forth on pages 2-4 of the specification, the present invention provides benefits not possible with the prior art. For example, installation tolerances can be relaxed as a result of the claimed structure thereby improving manufacturing procedures, among other things.

Applicant respectfully requests withdrawal of the rejections.

***Rejections - 35 U.S.C. § 103 (A)***

In paragraphs 9-16 of the Office Action, claims 1-3 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamashita et al. in view of U.S. Patent No. 5,575,326 (Asami et al.). In response, Applicant has amended independent claim 1 as mentioned above.

The structure required by amended independent claim 1 is **not** disclosed or suggested by the Yamashita et al. patent and/or the Asami et al. patent or any other prior art of record. Specifically, as discussed above, Yamashita et al. fails to disclose a heat exchanger that includes first, second and third heat exchanger units. Asami et al. also fails to disclose the claimed structure.

It is well settled in U.S. patent law that the mere fact that the prior art can be modified does **not** make the modification obvious, unless the prior art **suggests** the desirability of the modification. There is no suggestion or motivation for combining Yamashita et al. with Asami et al. Further, even if one were to combine Asami et al. with Yamashita et al., one

would still fail to achieve the heat exchanger recited in amended independent claim 1 requiring first, second and third heat exchanger units.

Further, the Yamashita et al. reference teaches away from the present invention in that a single heat exchanger unit is disclosed and taught. Specifically, Yamashita et al. emphasizes the advantages of close-net webbing of a single heat exchanger unit (see paragraphs [0053]-[0058] of the translation of Yamashita et al.). It therefore would not be obvious to combine Yamashita et al. with Asami et al., or any other one of the cited references to achieve the claimed invention.

Moreover, Applicant believes that the dependent claim 3 is also allowable over the prior art of record in that it depends from independent claim 1, and therefore is allowable for the reasons stated above. Also, the dependent claim 3 is further allowable because it includes additional limitations. Thus, Applicant believes that since the prior art of record does not disclose or suggest the invention as set forth in independent claim 1, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Therefore, Applicant respectfully requests that this rejection be withdrawn in view of the above comments and amendments.

***Rejections - 35 U.S.C. § 103 (B)***

In paragraphs 17-20 of the Office Action, claim 4 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamashita et al. in view of Asami et al., in further view of US Patent No. 6,086,324 (Ikeda et al.). In response, Applicant has amended independent claim 1 as mentioned above. Claim 4 includes all the limitations of claim 1 since it includes the heat exchanger disclosed in claim 1.

The structure required by amended claim 4 is **not** disclosed or suggested by the Yamashita et al. patent, the Asami et al. patent and/or the Ikeda et al. patent or any other prior art of record. Specifically, as discussed above, Yamashita et al. fails to disclose a heat exchanger that includes first, second and third heat exchanger units. Asami et al. also fails to disclose the claimed structure. Ikeda et al. also fails to disclose the claimed structure. In fact, Ikeda et al. teaches a single heat exchanger, the heat exchanger 7 that “is bent in a chevron shape” (see Column 1, lines 31-33 of Ikeda et al.).

It is well settled in U.S. patent law that the mere fact that the prior art can be modified does **not** make the modification obvious, unless the prior art **suggests** the desirability of the modification. There is no suggestion or motivation for combining Yamashita et al. with Asami et al. and Ikeda et al. Further, even if one were to combine Asami et al. and Ikeda et al. with Yamashita et al., one would still fail to achieve the heat exchanger recited in amended independent claim 1 and consequently claim 5, requiring first, second and third heat exchanger units.

Further, the Yamashita et al. reference teaches away from the present invention in that a single heat exchanger unit is disclosed and taught. Specifically, Yamashita et al. emphasizes the advantages of close-net webbing of a single heat exchanger unit (see paragraphs [0053]-[0058] of the translation of Yamashita et al.). It therefore would not be obvious to combine Yamashita et al. with Asami et al., Ikeda et al., or any other one of the cited references to achieve the claimed invention.

Therefore, Applicant respectfully requests that this rejection be withdrawn in view of the above comments and amendments.

***Rejections - 35 U.S.C. § 103 (C)***

In paragraphs 21-25 of the Office Action, claims 5-8 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yamashita et al. in view of Asami et al., in view of Ikeda et al, and further in view of Japanese Patent Document No. JP-2001/141256A (Sato). In response, Applicant has amended independent claim 1 as mentioned above. Claim 5 (and dependent claims 6-8) includes all the limitations of claim 1 since it includes the heat exchanger recited in claim 1.

The structure required by amended claim 5 (and claim 1) is ***not*** disclosed or suggested by the Yamashita et al. patent, the Ikeda et al. patent, the Asami et al. patent and /or the Sato reference or any other prior art of record. Specifically, as discussed above, Yamashita et al. the Ikeda et al. patent and the Asami et al. patent all fail to disclose a heat exchanger that includes first, second and third heat exchanger units. Sato also fails to disclose the claimed structure. Specifically, Sato discloses a single heat exchanger 56 (see Figures 1 and 2 of Sato).

It is well settled in U.S. patent law that the mere fact that the prior art can be modified does ***not*** make the modification obvious, unless the prior art ***suggests*** the desirability of the modification. There is no suggestion or motivation for combining Yamashita et al. with Asami et al., Ikeda et al and Sato. Further, even if one were to combine Asami et al., Ikeda et al. Yamashita et al. and Sato, one would still fail to achieve the heat exchanger recited in amended independent claim 1 and consequently claim 5, requiring first, second and third heat exchanger units.

Further, the Yamashita et al. reference teaches away from the present invention in that a single heat exchanger unit is disclosed and taught. Specifically, Yamashita et al. emphasizes the advantages of close-net webbing of a single heat exchanger unit (see

paragraphs [0053]-[0058] of the translation of Yamashita et al.). It therefore would not be obvious to combine Yamashita et al. with Asami et al., Ikeda et al., Sato, or any other one of the cited references to achieve the claimed invention.

Therefore, Applicant respectfully requests that this rejection be withdrawn in view of the above comments and amendments.

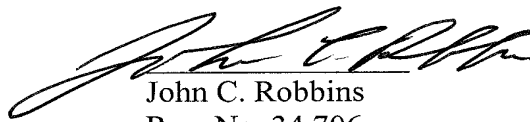
***Prior Art Citation***

In the Office Action, additional prior art references were made of record. Applicant believes that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1-8 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

  
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